

REMARKS

This Amendment is in response to the Official Action mailed on August 11, 2005, the period for responding with the enclosed Petition for a Two Month Extension of Time being set to expire on January 11, 2006. Claims 1-6, 10-13, 15, 17-20, 22, 23, 25-27, 29, 30, 32, 33 and 35-40 are rejected. Claims 7-9, 14, 16, 21, 24, 28, 31, and 34 have been cancelled.

I. CLAIM AMENDMENTS

Applicant has added new claim 41 which recites the limitations of former claim 1 and also further recites that the " water dam of said window frame supports said window sash when said window sash is in said open-tilted position." Applicant contends that because claim 41 combines limitations of previously submitted claims, there is support in the specification for this amendment and that no new matter has been added. See, e.g. claims 1 and 17.

Applicant has amended claims 1, 10, 15, and 22 to recite that the kidney shaped channels are "formed within" the window frame. Applicant contends that the drawings clearly illustrate this feature and that no new matter has been added. See, e.g., FIGS. 3 and 3A.

Applicant has also amended claim 13 to recite that it is the "supporting means" which includes a water dam. Applicant asserts that this amendment was made in order to clarify the scope of the claim and to conform the claim to the specification and drawings. See, e.g., FIGS. 9 and 10. Thus, Applicant contends that no new matter has been added.

Finally, as described in more detail below, Applicant has also deleted the claim language "its" from claims 1 and 17.

II. 35 U.S.C. § 112 REJECTIONS

The Examiner has rejected claim 1 under 35 U.S.C. § 112 as failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In order to overcome this rejection, Applicant has deleted the language "its" from claim 1, lns. 9-10, so that claim 1 now recites that the window sash moves from "said closed position to said open-tilted position and vice versa."

For purposes of conformity, Applicant has also deleted the term "its" from claim 17 and added the language "said", so that claim 17 also recites that the window sash moves from "said closed position to said open-tilted position and vice versa."

Applicant contends that the claim amendments do not represent new matter and merely clarify the scope of the invention. Accordingly, Applicant contends that the Examiner's 35 U.S.C. § 112 rejection is overcome.

III. SOWA DOES NOT SUPPORT THE EXAMINER'S ANTICIPATION OR OBVIOUSNESS REJECTIONS

The Examiner has rejected claims 1, 2, 5, 6, 10, 11, 13, 17, 19, 29, 30, 35, 36, 38 and 40 as being anticipated under 35 U.S.C. § 102(a) by JP 58210289A to Sowa ("Sowa"). (A certified translation of Sowa is submitted herewith on the accompanying Information Disclosure Statement.) However, as will be described in more detail below, Sowa fails to teach or suggest one or more features of Applicant's claimed invention. Accordingly, Applicant contends that the Examiner's rejections are overcome.

A. Sowa Fails to Teach or Suggest Kidney Shaped Receptacles or Channels Formed Within the Frame

Applicant's claimed invention teaches a kidney shaped receptacle or channel "formed within" the window frame (see independent claims 1, 10, 15 and 22) or alternatively, one that

is "located in at least one vertical arm" of the window frame (see independent claim 29). The kidney shaped receptacle or channel is not a separate hinge or bracket which may be attached to the window frame, but it is rather manufactured as a part of the window frame.

Sowa fails to teach the use of kidney shaped receptacles or channels formed within or as part of the window frame to allow for movement of the window sash within the window frame. Rather, Sowa teaches the use of an external two-piece hinge attachment, wherein the first portion of the attachment has kidney shaped receptacles and is connected to the horizontal edge of a window frame, and wherein the second portion of the attachment is connected to the horizontal edge of the window sash. (See FIGS. A-D below, which were reproduced from Sowa.) Thus, Sowa does not teach or suggest incorporating kidney shaped channels or receptacles into the window frame itself.

Furthermore, Sowa makes clear that the purpose of the two piece hinge attachment is to eliminate the need, cost and trouble associated with guide fitting a channel formed within the window frame itself that can both receive a window sash component (such as a shaft) and allow movement of the window sash from an open to a closed position. See Sowa Translation, e.g., page 1, Col. 2, lns. 4-12. In other words, Sowa teaches that it is unnecessary to form a channel or receptacle within a window frame to guide movement of the window sash from an open-tilted position to a closed position and vice versa. Thus, Sowa teaches away from the concept of utilizing channels or receptacles formed within a window frame (or alternatively located in a vertical arm of the window frame) to allow movement of the window sash, let alone channels or receptacles in the shape of a kidney that are formed within the window frame itself. Accordingly, Sowa fails to anticipate at least claims 1-6, 8, 10-13, 15, 22-23, 25-27, 29-30, 32-33, 35, and 38-40.

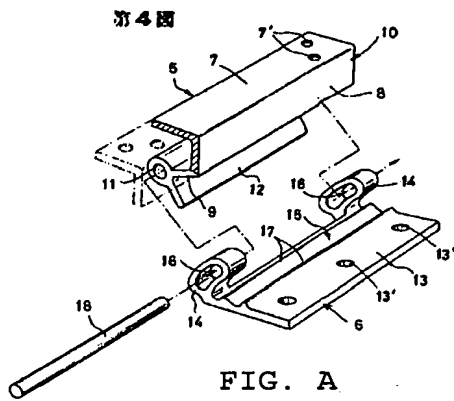


FIG. A

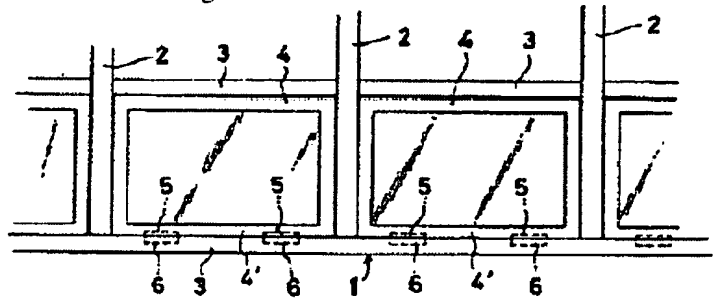


FIG. B

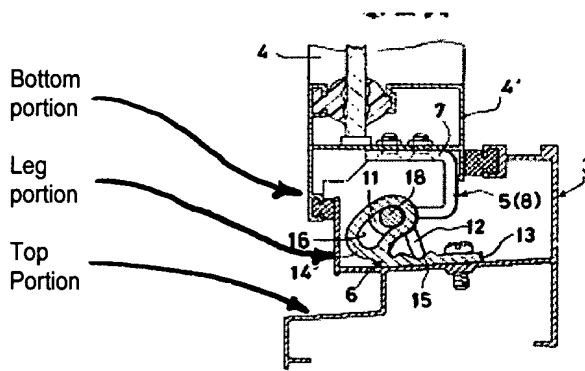


FIG. C

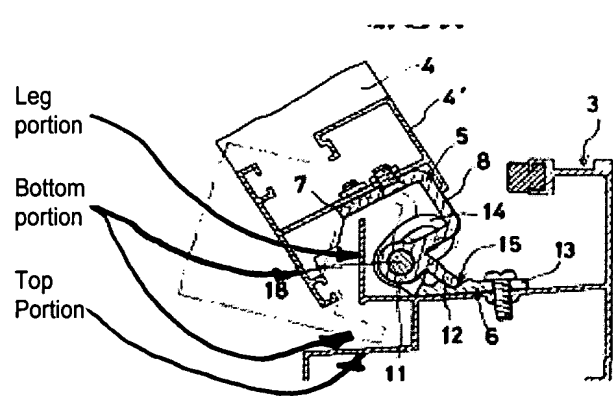


FIG. D

B. Sowa Fails to Teach a Water Dam which is Capable of Engaging or Supporting the Window Sash in an Open-Tilted Position

Applicant's claimed invention teaches the use of a "water dam" capable of minimizing the amount of water entering the interior of the window and engaging or supporting the window sash in its open-tilted position. As shown in the preferred embodiment of Applicant's claimed invention, reproduced as FIGS. 1 and 2, below, the outer edge of the window sash 104 engages or rests against the water dam 204.

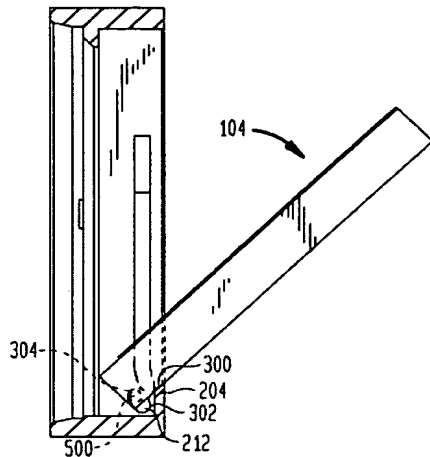


FIG. 1

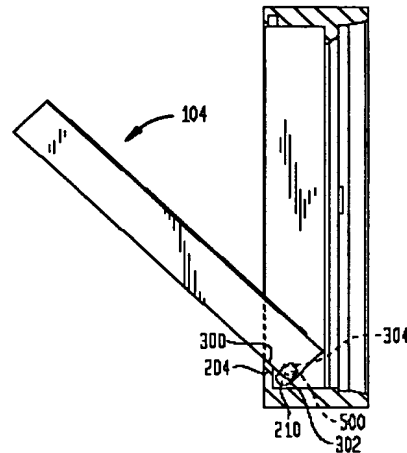


FIG. 2

In stark contrast, Sowa fails to teach the use of a water dam to engage or support the window sash in an open-tilted position. FIGS. C and D above demonstrate that the leg portion of the frame referred to by the Examiner as a "water dam" (labeled by Applicant as LEG PORTION) does not support the window sash in an open-tilted position. Rather, the bottom portion of the window sash (labeled by Applicant as BOTTOM PORTION) shown in broken lines rests against the top portion (labeled by Applicant as TOP PORTION) of the window frame, and not the water dam. See also page 2, col. 2, lns. 4-13. Moreover, there is no teaching or suggestion in the written description that the window sash engages a portion of the window frame, other than the portions illustrated therein, i.e., the top portion of the window frame. As the burden rests on the Examiner to demonstrate that Sowa does indeed teach the feature of a water dam engaging or supporting the window sash in an open-tilted position, Applicant respectfully contends that the Examiner has failed to demonstrate that Sowa teaches or suggests this claimed feature. Thus, Sowa fails to anticipate at least claims 5, 13, 17-20, 23, 30, 36-37, and 41.

C. Sowa Fails to Teach or Suggest a Pair of Pins

Applicant's claimed invention recites a "pair of parallel pivot pins." Sowa does not teach or suggest a pair of parallel pivot pins. Rather Sowa teaches the use of a *single shaft* 18, which acts as a fulcrum. Thus, Sowa fails to teach this feature, which is expressly recited in independent claims 1 and 17, and also dependent claims 11 and 26.

D. Sowa, in Combination With U.S. Patent No. 4,222,201 to Yanessa ("Yanessa") or U.S. Patent No. 6,018,911 to Menegazzo ("Menegazzo"), Fails to Teach or Suggest the Features of Applicant's Claimed Invention

The Examiner has rejected claims 3, 12, 18, 29, 33 and 38 as being obvious under 35 U.S.C. § 103(a) in light of the combination of Sowa and Yanessa. Similarly, the Examiner has rejected claims 4, 15, 20, 22, 23, 25, 26, 32 and 39 as being obvious under 35 U.S.C. § 103(a), in light of the combination of Sowa and Menegazzo. As explained in detail above, Sowa does not teach or suggest the limitations of Applicant's claimed invention. It follows that Sowa, in combination with Yanessa or Menegazzo cannot be relied upon to form the basis of the Examiner's obviousness rejections. Moreover, Applicant contends that Menegazzo fails to teach a kidney shaped opening formed within the frame. Rather, Menegazzo only teaches use of a channel formed on a side frame or vertical leg of the window frame. Accordingly, Applicant contends that the Examiner's rejection of these claims is moot.

In sum, Sowa fails to teach or suggest kidney shaped receptacles or channels formed within the window frame; the use of a water dam to support the window sash in an open-tilted position; or the use of a pair of pivot pins. Furthermore, Sowa, in combination with Yanessa or Menegazzo fails to teach or suggest the features of Applicant's claimed invention.

Accordingly, Applicant contends that these claims are now in condition for allowance.

IV. CONCLUSION

As it is believed that all of the claims are now in condition for allowance, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicant's attorney at (908) 518-6394 in order to address any additional concerns which the Examiner might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 10, 2006

Respectfully submitted,

By April M. Capati

April M. Capati
Registration No.: 54,298
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 518-6394
Attorney for Applicant